

David Henderson
Law Offices of David Henderson
3003 Minnesota Drive, Suite 203
Anchorage, AK 99503
Phone: 907-677-1234
Fax: 907-677-1235
dh@henderson-law.com

Attorney for Plaintiffs

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ALASKA

Diane L. Long and Balingo Lake
Individually, and as Parents of
their minor child, J.L.,

Plaintiffs,

vs.

United States of America and
LifeMed Alaska, LLC,

Defendants.

Case no. _____

Complaint

COME NOW plaintiffs and allege as follows:

Jurisdiction

1. Plaintiffs are Alaskan Natives and residents of Anchorage, Alaska, in the District of Alaska.

2. Plaintiffs Diana Long [hereinafter "Long"] and Balingo Lake [hereinafter "Lake"] are adults and the natural parents of plaintiff J.L., a minor child.

1 3. The Hooper Bay Subregional Clinic [hereinafter "the
2 Clinic"] is a health-care facility owned and operated by the
3 Yukon-Kuskokwim Health Corporation ["YKHC"], a tribal
4 organization whose medical malpractice is covered by the *Federal*
5 *Tort Claims Act*, 28 USC §1346, 2401, and 2671 et seq.

6 4. Steven Bertrand was at all times pertinent a
7 physician's assistant acting within the scope of his employment
8 at the Clinic.
9

10 5. More than six months ago, the claim giving rise to
11 this suit was presented to the appropriate federal agency within
12 the meaning of 28 USC § 2675(a).

13 6. Said agency has denied the claim, either by expressly
14 rejecting it outright, or by failing to make a final disposition
15 of it within six months, as contemplated by 28 USC § 2675(a).

16 7. Defendant LifeMed Alaska LLC [hereinafter "LifeMed"]
17 is a limited liability company organized and existing under the
18 laws of the State of Alaska, and at least 50% owned by YKHC.

19 8. LifeMed owns and operates an air- and ground-ambulance
20 service that transports patients throughout Alaska.
21

22 9. At all times relevant hereto, Brian Anderson, RN, and
23 Steven Heyano, MICP EMT-P, and other employees, were either
24 employed by LifeMed, and acting within the scope of that
25

1 employment, or were agents of LifeMed, and acting within the
2 scope of that agency.

3 10. This court has jurisdiction over the claims asserted
4 herein.

5
6 General Allegations

7 11. On at least three occasions in March and April of
8 2015, Long presented her four-month old infant daughter, J.L.,
9 to the Clinic in Hooper Bay for medical care and treatment of
10 what appeared to be a respiratory viral condition.

11 12. During these visits, J.L. was placed under the care
12 and treatment of Steven Bertrand, a physician's assistant.

13 13. By the time of her visit on April 29, 2016, J.L.'s
14 signs and symptoms had worsened and intensified: her heart rate
15 was 180; respiratory rate was 52; her oxygen saturation was 99%;
16 she had audible wheezing; a fever of 100.5; her appetite and
17 fluid-intake had decreased, and; she had retractions in the
18 upper-abdomen/stomach region while breathing.

19 14. Despite J.L.'s worsening signs and symptoms, Bertrand
20 failed to properly and adequately diagnose, treat, and deal with
21 J.L.'s worsening status.

22 15. For example, he did not administer simple tests for
23 influenza or respiratory syncytial virus ["RSV"], a respiratory-
24
25

1 tract infection that can be fatal in infants in not properly
2 treated, or send her into the hospital for aggressive treatment.

3 16. On May 3, 2015, Long again presented J.L. to the
4 Clinic -- this time after hours, and in critical condition.

5 17. At that point, J.L. was septic, profoundly dehydrated;
6 febrile; had a very elevated pulse; an elevated respiratory
7 rate; audible wheezing; low oxygen saturation; intercostal
8 retractions; nasal flaring, and general nonresponsiveness.

9 18. In light of the gravity of J.L.'s condition, LifeMed
10 was summoned to evacuate her by air to a more complete health-
11 care facility, first in Bethel, and ultimately to the Alaska
12 Native Medical Center ["ANMC"] in Anchorage.

13 19. Prior to the flight, Bertrand improperly placed an
14 intraosseous line in J.L.'s left tibia.

15 20. He then failed to detect and ensure its improper
16 placement.

17 21. Registered nurse Brian Anderson, together with Steven
18 Heyano, MICP EMT-P, and others responded on LifeMed's behalf to
19 provide medical care for J.L. while en route to Anchorage.

20 22. During the flight, Anderson and Heyano both visualized
21 and noted clear signs of extravasation, such as intensifying and
22 deepening redness in the left leg.

1 23. Nevertheless, they still administered powerful
2 medicinal agents through the improperly placed needle and line,
3 resulting in extravasation -- a maloccurrence whereby fluids are
4 injected into surrounding tissues, rather than into the target
5 blood vessel itself.

6 24. Neither practitioner took reasonable and sufficient
7 precautions to ensure the line's proper placement and patency.
8

9 25. Nor did they inform ANMC receiving personnel in
10 Anchorage about their in-flight observations of redness and
11 concerns about extravasation.

12 26. The resulting extravasation caused swelling and
13 ischemia [obstructed blood-flow], which in turn killed the
14 tissues [necrosis] in J.L.'s left lower extremity. Although
15 ANMC's doctors attempted to treat J.L.'s ischemic and necrotic
16 lower left leg, their efforts failed; ultimately, the leg was
17 amputated. Respiratory cultures taken at ANMC revealed that
18 J.L. did have RSV and influenza, which had progressed to the
19 point of causing respiratory failure, sepsis [blood-poisoning],
20 and septic shock [sepsis accompanied by low blood-pressure].
21

22 27. ANMC practitioners also determined that J.L. had a
23 left pneumothorax [collapsed lung], which they treated.

24 28. The above-described sepsis, as well as other
25 physiological responses to J.L.'s viral infection(s), damaged

1 J.L.'s heart, likely necessitating ongoing treatments throughout
2 her lifetime, including ultimately a heart transplant.

3 29. The acts, errors, and omissions alleged herein have
4 proximately caused injury and damage to J.L., including, but not
5 necessarily limited to:

6 a. Physical pain and suffering, past and future;

7 b. Severe and permanent physical impairment and
8 disfigurement;

9 c. Emotional distress and psychological injury, past and
10 future;

11 d. Inconvenience and loss of enjoyment of life, past and
12 future;

13 e. Medical- and treatment-related expenses, including
14 life-care expenses, past and future;

15 f. Other pecuniary losses, past and future, including,
16 but not necessarily limited to, lost wages and earnings, lost
17 earning capacity, lost subsistence capability and earnings, and;
18 loss of career and business opportunities.

19 30. As a proximate result of the acts, errors, and
20 omissions alleged herein, Long and Lake have also suffered
21 injuries and damages, including, but not limited to:

22 a. Past medical- and treatment-related expenses;

1 b. Emotional distress and psychological injury, past and
2 future;

3 d. Inconvenience and loss of enjoyment of life, past and
4 future;

5 d. Loss of domestic and household services, and

6 e. Loss of child consortium.
7

8 **Cause of Action - Negligence/Recklessness**
9 **[On each plaintiffs' behalf**
10 **against each defendant]**

11 31. Plaintiffs incorporate each of the allegations
12 heretofore alleged.

13 32. Medical care providers at the Clinic and LifeMed
14 failed to exercise that degree of skill, care, and knowledge
15 ordinarily exercised and possessed under the circumstances by
16 health care providers in their fields and specialties.

17 33. Said lapses and breaches of skill, care, and
18 competence proximately caused the injuries and damages alleged
19 herein.

20 34. Said lapses and breaches constitute recklessness
21 within the contemplation of AS 09.55.549(f).

22 35. Defendants are liable to each of the plaintiffs for
23 negligence, in an amount to be proved at trial.
24

25 WHEREFORE, plaintiffs pray for relief as follows:

LAW OFFICES OF DAVID HENDERSON
3003 Minnesota Drive, Suite 203
Anchorage, AK 99503
Phone: 907-677-1234
Fax: 907-677-1235

1 1. For a judgment against defendants, and in plaintiffs'
2 favor, compensating them for their injuries and damages, as
3 alleged;

4 2. For an award of compensable costs, compensable
5 attorney's fees, and any applicable interest.

6 3. For any other relief the court may deem just and
7 proper.
8

9 DATED this 25th day of April, 2016, at Anchorage, Alaska.

10
11 LAW OFFICES OF DAVID HENDERSON
12 Attorney for the Plaintiff

13 s/David Henderson
14 David Henderson #9806014